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C O N F I D E N T I A L MANILA 001714

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E.O. 12958: DECL: 04/19/2016  
TAGS: [PREL](#) [MARR](#) [KCRM](#) [CASC](#) [RP](#)  
SUBJECT: LIKELY REDUCTION OF CHARGES FOR 3 MARINES IN  
ALLEGED RAPE CASE

REF: MANILA 1519 AND PREVIOUS

Classified By: Pol/C Scott Bellard for reasons 1.4 (b) and (d).

¶1. (SBU) Summary. The Philippine Secretary of Justice announced that he would recommend to the court a reduction in the charges against three of the Marines in the ongoing alleged rape case. Lawyers for the complainant and for the Marines have both characterized the proposed reduced charges of "accessory to rape" as legally dubious. The Department of Justice (DOJ) had earlier announced that it would assign Olongapo City prosecutors to continue with the case despite the change in venue to a Makati City court. The DOJ is also conducting a new investigation of the driver of the van in which the rape allegedly occurred. GRP officials have suggested the possibility of bail for the three, although this seems at direct variance with the principle of continued US custody. Their lawyers may begin to agitate for their release. End Summary.

¶2. (U) On April 18, Secretary of Justice Raul Gonzalez told the media that DOJ will recommend to the trial court a reduction in charges against SSgt. Chad Carpentier, Cpl. Dominic Duplantis, and Cpl. Keith Silkwood to "accessories to rape" rather than with rape. Secretary Gonzalez noted that the alleged victim herself had acknowledged that only the fourth Marine in the case, Cpl. Daniel Smith, had sexual contact with her, and that "there is no evidence of conspiracy" in the case. Secretary Gonzalez's decision was in response to petitions by Carpentier, Duplantis, and Silkwood asking the DOJ to overturn the prosecutor's finding of probable cause in their cases. (Smith did not file such a petition with the DOJ.) According to Gonzalez, the Makati City Regional Trial court judge would make the final decision about the charges.

¶3. (SBU) An attorney for the alleged victim characterized Secretary Gonzalez's decision as "legally incorrect," noting

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that, under Philippine law, an accessory is someone whose actions have occurred subsequent to the crime, whereas Carpentier, Duplantis, and Silkwood have all admitted to being present during Smith's encounter with the alleged victim. In private conversation with emboff, King Rodrigo, lead attorney for the Marines, agreed that the term "accessory" did not seem to fit the circumstances of the case.

¶4. (U) The DOJ has rendered two other decisions regarding the alleged rape case in recent days. On April 5, the DOJ ordered Olongapo City Prosecutor Prudencio Jalandoni and Assistant City Prosecutor Raymund Viray to continue as

government prosecutors in the case, in spite of a change of venue in the case from Olongapo City to Makati City. Jalandoni and Viray will be part of a five-prosecutor panel headed by Makati City Prosecutor Feliciano Aspi. On April 17, the DOJ also announced that it would conduct a new preliminary investigation of Timoteo Soriano, the driver of the van in which the rape is alleged to have occurred.

15. (C) U/S of Foreign Affairs Seguis contacted Pol/C on April 18 to give a heads up on Gonzalez's recommendation. He claimed that such new charges would enable the three defendants to request bail, a comment Gonzalez later made publicly. Pol/C noted that, given US custody of the four Marines, bail within the Philippine system was not at issue.

16. (C) Comment: Given the public comments about the possibility of bail, the attorneys for the three Marines likely will begin to agitate for the release of their clients, should the Makati court indeed reduce the charges. If so, we may need to rethink the conditions of their confinement. End Comment.

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Kenney